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Francis Scott Key

Author of

The Star Spangled Banner



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FRANCIS SCOTT KEY

*Mr. Ray Lyman Wilbur  
Compliments of the author  
F. S. Key-Smith*

FRANCIS SCOTT KEY

*AUTHOR OF*

THE STAR SPANGLED BANNER

*WHAT ELSE HE WAS  
AND WHO*

BY

F. S. KEY-SMITH, Esq.

Member of the  
Bar of the District of Columbia

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## TABLE OF CONTENTS

	PAGE
<i>Foreword</i> .....	6
<i>Acknowledgments</i> .....	7
<i>Our Patriot</i> .....	8
I. <i>His Ancestors</i> .....	9
II. <i>His Early Years</i> .....	13
III. <i>As a Churchman and Christian</i> ..	16
IV. <i>The Lawyer</i> .....	23
V. <i>The Statesman and Diplomat</i> ...	44
VI. <i>The Star Spangled Banner</i> .....	62
VII. <i>The Old Georgetown Home</i> .....	89
VIII. <i>In Conclusion</i> .....	92
IX. <i>Heaven Claims Its Own</i> .....	96
<i>Appendix</i> .....	99

## LIST OF ILLUSTRATIONS

*Francis Scott Key*

FRONTISPIECE

*The Original Flag*

Suspended in front of Smithsonian Institution

*Francis Scott Key*

From Charles Willson Peale's oil painting

*The Star Spangled Banner*

Another view

*Fac simile of the original draft of the song*

*Samuel Sands*

Who first set the song in type

*Old Key Home in Georgetown*

*Key Monument at Grave*

Mount Olivet Cemetery, Frederick, Md.

*In loving memory of a  
Mother,  
whose generous and self-sacrificing love  
for her children  
has never been surpassed, this little volume is  
most reverently and devotedly inscribed*

*The Author*

*Washington, D. C., March 1st, 1911*

## FOREWORD

This volume is designed to give a better insight into the character, and to make known the many and varied talents and achievements, of Francis Scott Key, for in composing his tribute to his country's flag, contained in the beautiful lines of the "Star Spangled Banner," the splendor with which he crowned his name has shone so brightly that it has extinguished the brilliancy of his many other great deeds and signal services, so that little, if anything, is known of them.

A belief that the American people will be interested in learning something of the author of their National Anthem, as a man, a lawyer, orator and statesman, as well as a poet and patriot, has prompted the preparation and publication of this book, a task by no means light, involving both courage and industry. Should it be graciously received the author will not regret the labor, research and time expended.

F. S. KEY-SMITH.

Washington, D. C., March 1, 1911.

## ACKNOWLEDGMENTS

In the preparation of this book, for assistance rendered, my acknowledgments are due to Mr. Richard Rathbun, of the Smithsonian Institution, to whom I am indebted for the picture of the original flag; to Mr. John T. Loomis, of Washington, D. C., for the picture and letter of Mr. Samuel Sands, who first set the words in type; to Mr. Hugh T. Taggart, of Washington, D. C., for interest and encouragement; to Miss Alice Key Blunt, of Baltimore, Md., for much assistance derived from many old manuscripts and letters; to Mr. Frank Key Howard and sister, Miss Nancy Howard, of Baltimore, Md., for the picture of Key appearing as frontispiece; to the Pennsylvania Academy of Fine Arts at Philadelphia for the portrait of Key from Charles Willson Peale's oil painting, and to Mr. Lawrence C. Wroth and Edwin Higgins, Esq., of Baltimore, for many courtesies extended.

The encouragement and kindness shown me by the above has lightened very greatly the task assumed.

# OUR PATRIOT

*To the memory of Francis Scott-Key.*

At rest beneath the azure sky,  
There lies a loyal son,  
He's gone to meet his God on high,  
His duty here well done.  
No truer heart has lain at rest,  
Or was there e'er one born  
Upon our country's soil most blest,  
Than his, who now has gone.

Those stars and stripes his mem'ry bear,  
As long as they remain,  
And through all ages shall declare,  
His loved and honored name.  
The massive walls of that old fort,  
Monument grand to fame,  
Remind us of the battle fought,  
And our patriot's name.

'Twas here he watched them through the fight,  
Upon the ramparts far,  
Until the darkness closed from sight,  
Each floating stripe and star.  
And when at morn, kissed by the light,  
They still waved proudly high,  
His heart was filled with wild delight,  
He knew his God was nigh.

Then as the day broke bright and clear—  
The battle's tempest ceased—  
No longer was there need to fear,  
Victory! all released.  
He had seen the struggle through the night,  
And heard the cannons' roar,  
But the flag which darkness hid from sight  
Still waved o'er freeman's shore.

"'Twas the Star Spangled Banner, O! long  
may it wave  
O'er the land of the free and the home of the  
brave."

F. S. KEY-SMITH.

Washington, D. C., Sept., 1894.

## CHAPTER I.

### *His Ancestors.*

Fifty years or more before our declaration of independence was signed, or to be more precise, about the year 1726, two brothers, Henry and Philip Key, sons of Richard and Mary Key, of the Parish of St. Paul, Covent Garden, London, came to America and settled on the north bank of the Potomac, about forty miles above its mouth, near a place since known as Leonardtown. In their bosoms, like in those of most others who came to our shores, there burned an undying longing for freedom and independence—a longing which has kindled a fire, the flame of which is destined to consume the world.

Henry died young, a bachelor, Philip lived and prospered. He took up several large tracts of land throughout the Colony of Maryland, on one, near Leonardtown, he built a handsome brick residence. He also built a brick church at Chaptico, St. Mary's County, which is yet standing.

He was twice married, his first wife was Susannah Gardiner, and upon her death he married Theodosia Barton. By his first wife he had seven children in the order



named: Richard Ward; Philip; Thomas; Francis; Edmond; John and Susannah Gardiner: Edmond studied law in England and upon his return to Maryland he practiced his profession with much success and gained distinction, becoming the Attorney General of the Province.

Francis married Ann Arnold Ross, a daughter of John Ross, who came to this country in an official capacity connected with the land office in 1730, and settled in Ann Arundel County near Annapolis.

Here at the junction of the Severn River with Round Bay, seven miles from Annapolis, he built a large spacious Manor House on his estate named Belvoir. This is also still standing. The materials used in its construction were in all probability brought from England. In the walls, which are sixteen inches in thickness, are wide windows with deep recesses extending nearly to the one-time beautiful floors of hard polished oak.

To the marriage of Francis Key with Ann Arnold Ross were born three children, John Ross Key, Philip Barton Key and Elizabeth Scott Key. John Ross married Ann Phoebe Dagworthy Charlton.

Upon his father dying intestate, he, being the eldest, by the English law of primo-

geniture then in force in the Colony, inherited the whole of the estate. However, with a nobleness of spirit and generosity rarely seen, he divided equally with his younger brother. And again, upon his brother's share being confiscated because of his loyalty to England during the Revolution, although John Ross Key had fought with distinction in the American cause as an officer of the Continental Army and given largely of his finances toward its support, he, nevertheless, again divided his inheritance with his brother.

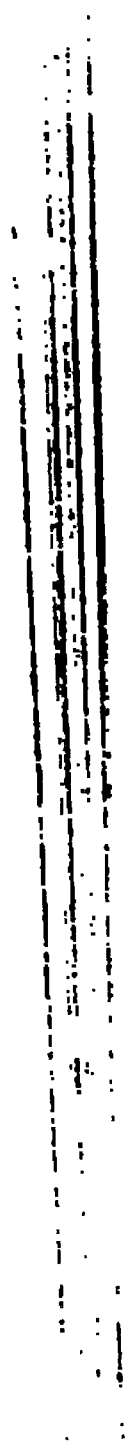
He made his home upon his estate, Terra Rubra, in Frederick County, Maryland. Here was born to him two children, a son and a daughter, Francis Scott Key and Ann Arnold Key.

The daughter married Roger Brooke Taney, Secretary of the Treasury under President Jackson and subsequently Chief Justice of the United States Supreme Court.

Amid fertile valleys skirted by tall wooded mountain ranges, upon this estate of nearly three thousand acres, through which flowed Pipe Creek, Francis Scott Key and his sister roamed and were reared.

Out across the green fields and meadows

where grazed the peaceful herds and flocks, or waved in the warm bright sunshine the golden grain, from the verandas of their home they could gaze and dreamily idle away their childhood days. Thus imbibing all that is best and purest in nature is it remarkable that there was added to his many other qualities and talents, a Christian's soul and a poet's fervor? To her many graces, the little girl, so tenderly reared, should have possessed in womanhood such exceptional qualities as to touch and hold the unimpulsive heart of her husband, a most phlegmatic man, a great lawyer and jurist?





FRANCIS SCOTT KEY

*From Charles Willson Peale's Oil Painting*

## CHAPTER II.

### *His early years.*

But to draw the curtain from across the portal which opens out upon the modest yet firm and beautiful life, so full of healthy example and worthy of emulation, of the principal *dramatis personæ* of this book. That richly endowed and very talented man, who combined in such rich perfusion and rare perfection all of the most admirable qualities of the Christian, patriot, statesman, lawyer and poet, Francis Scott Key. Nature ushered him into the trials and hardships of this life on the 9th day of August, 1780, and during nearly sixty-three years of sojourn in this world, as expressed by one of his granddaughters, he ever "kept the stars in sight, though the stripes of life were laid upon him, as upon all."

Much of his early life while attending school and college was spent with relatives in and around Annapolis. At Belvoir he was tutored in the first branches of a liberal education and received much religious instruction.

His grandmother, Mrs. Key, was totally blind, having lost her eyesight by fire and

smoke in rescuing two of her servants from the flames when her father's house was burned. Her Christian fortitude under her terrible affliction impressed itself deeply upon his pure and highly sensitive nature, and no doubt had much to do with his own sublime and perfect faith.

During his attendance at St. John's College, where he was graduated, he resided with his great-aunt, his grandmother's sister, Mrs. Upton Scott, who was Elizabeth Ross.

A fellow student of Roger Brooke Taney, he read law in the office of Jeremiah Townley Chase. He was required to give strict attendance at court, that he might the better learn from observation and experience.

Having spent so much of his youth in and about Annapolis, it was only natural that one of the belles of Maryland's Capital City should have captivated his heart. In 1802 he married Mary Tayloe Lloyd, granddaughter of Edward Lloyd, Royal Governor of the Colony from 1709 to 1714. The wedding took place in the mahogany wainscoted drawing room of the old Lloyd house, which was built in 1772, and is now in good state of preservation. He had eleven children, six boys and five girls, Elizabeth Phoebe; Maria Lloyd; Francis

Scott, Jr.; John Ross; Ann Arnold; Edward Lloyd; Daniel Murray; Philip Barton; Ellen Lloyd; Alice; and Charles Henry.

In his suit for the hand of his bride his closest rival was his best friend, Daniel Murray, and it has been very properly observed it was a remarkable fact that he retained this friendship, a circumstance which testifies most strongly to the great characters of both. It is said that Miss Lloyd would make curl papers of his love sonnets and took particular pains that he should learn of it.



## CHAPTER III.

### *As a Churchman and Christian.*

A devout Christian, he was a regular attendant at church and took an active part in all religious affairs. At family prayers, which he regularly conducted twice a day, every member of his family, including the servants, were required to be in attendance. In the Sunday School he taught a Bible class of young men for many years, and was one of the vestrymen of St. John's Episcopal Church in Georgetown.

At the present time can be seen on the east wall of this church a tablet bearing an inscription of his composition\* to the memory of the Rev. Johannes I. Sayrs, a former rector. In later years his own memory has been perpetuated in a memorial window in Christ Church, Georgetown. However, the best memorial, bearing tribute to his Christianity and religious effort, is possibly to be found in his own lines in the hymn beginning, "Lord, with glowing heart I'd praise Thee."† The last two lines, namely: "And, since words can

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\*See Appendix.

†The complete hymn is to be found in the Appendix.

never measure, Let my life show forth thy praise," demonstrate his appreciation of the inadequacy of words to correctly express a meaning, and typify his legal acumen and training.

Upon the Rev. Walter Dulany Addison, another former rector of St. John's, becoming much enfeebled by age and ill health he was given a lay reader's license and for years read the service and visited the sick, oftentimes even holding up the aged rector's arms while he pronounced the benediction.

In speaking of his church work and religious character, Mr. Lawrence C. Wroth, in a very excellent and interesting article, appearing in the June number for 1909, Maryland Historical Magazine, says that on at least two occasions he seriously contemplated entering the ministry. His authority for the statement is contained in a letter to Mr. Key from Dr. Kemp then rector of St. Paul's Church, Baltimore, and afterwards suffragan Bishop of Maryland, proposing that Mr. Key enter the ministry and suggesting an association with him, in the parish of St. Paul's, and Mr. Key's replies under date of Georgetown, April 4 and 28, 1814. In the first of which he says, a few years before he had thought of pre-

paring himself for the ministry, but adds, from all the consideration he could give the subject he had concluded that such a step was impossible, and in his letter of April 28, he adds "I have thought a good deal upon this subject, and the difficulties that at first occurred to me appear insurmountable." Aside from a tendency towards the ministry, upon a careful reading of this correspondence, it will be seen he never seriously contemplated the step. He was, it is true, a very devout man, having a very great interest in the church and rendered it no doubt a very great service in many ways, being indefatigable in his efforts in its behalf, reconciling on more than one occasion the two factions of high and low church, or the "formalist and evangelical." He was of the latter party and differed greatly in his views with Dr. Kemp, and so wrote him. He believed, as he said, the Episcopal Church was the best form of religion, but he also distinctly said he did not think it the only valid one.

He was a delegate to every General Convention from 1814 to 1826, consecutively, and attended all excepting the first. Later, at the Convention of 1830, it was due almost entirely to his efforts that the two parties were reconciled and united upon

one man, (in the person of Rev. William Murray Stone,) for the Episcopate of Maryland, and again at the Convention of 1839 he mollified the contending factions, which brought about the election of Bishop Whittenham. At the Convention of 1820 it is said he was the only one allowed to stand up in defense of evangelical truth.

He was a life-long friend of Bishop Meade, of Virginia, who refers to him as such in his celebrated book, "Old Churches, Ministers and Families of Virginia." A trustee of the General Theological Seminary from its founding in 1820 until his death, and one of the founders of the Theological Seminary near Alexandria, Virginia.

Although at all times and in all things obedient to the canons of the church and respectful of its authority and the authority of those above him, he was quick to resent any unwarranted rebuke from that authority. When the differences of opinion existing between Dr. (then Bishop Kemp) and himself led the former to unjustly take him to task for doing what he considered to be his duty, he replied with some spirit, stating at length the exceptional circumstances under which he had felt called upon to baptize, at the request of its mother, a supposedly dying infant,

and explaining that he knew of no canon of the church prohibiting lay baptism of infants, especially under the circumstances which prompted him, but, on the contrary, knew of several instances in which it had been done and sanctioned under even less imperative conditions, he proceeds, "This, sir, is what I have done and I thought it right. You think it so clearly wrong that a moment's reflection 'ought to have arrested my progress.' I have reflected upon it since, and deliberately, and am still without any other reason for supposing it may be wrong than your telling me so. I hope, sir, you will excuse me for saying that this (tho' certainly worthy of serious consideration) is not sufficient for me. I can not acknowledge error when I do not see it, and trust you hold me so entitled to an opinion of my own as not to be bound to renounce it and confess myself wrong merely because any person, though entitled to the greatest respect, thinks differently."

From the necessarily brief consideration and extracts here given of this more or less unfortunate misunderstanding it should not be assumed that Mr. Key was disrespectful to the Bishop. The correspondence clearly shows the contrary. His letters show merely the spirit of the man, disappointed, and perhaps chafing some-

what from an unmerited rebuke administered by one to whom he had looked rather for praise and sympathy than censure and criticism. No doubt Bishop Kemp's attitude was produced in a large measure by the difference of opinion existing between them on church matters in general accentuated by the small part taken by Mr. Key in joining in a protest to the House of Bishops against his election. As Mr. Wroth very correctly observes, the Bishop seems never to have quite forgiven him, although he refused to concur in the charge that the election was the result of "premeditated management" basing his joinder in the protest upon the ground of "insufficient notice."

John Randolph of Roanoke, whose faith had been greatly shaken by reading works like Voltaire, frequently confided in him, and is said to have been greatly restored in his faith in Christianity in consequence. In a letter to Randolph he disposes of the arguments against Christianity in short order, and pays a great tribute to his unconquerable faith in these words:

"I don't believe there are any new objections to be discovered to the truth of Christianity, though there may be some art in presenting old ones in a new dress. My faith has been greatly confirmed by the

infidel writers I have read: and I think such would be their effect upon anyone who has examined the evidences. Our church recommends their perusal to students of divinity, which shows she is not afraid of them. Men may argue ingeniously against our faith, as indeed they may against anything—but what can they say in defense of their own—I would carry the war into their own territories, I would ask them what they believe—if they said they believed anything, I think that they might be shown to be more full of difficulties and liable to infinitely greater objections than the system they oppose and they were credulous and unreasonable for believing it. If they said they did not believe anything, you could not, to be sure, have anything further to say to them. In that case they would be insane, or at best illy qualified to teach others what they ought to believe or disbelieve.”

For this purity of character and unswerving sincerity in his Christian faith, the richest of his earthly rewards was the exalted honor, permitted him by Providence, of immortalizing his name upon the flag of his country in christening it, “The Star Spangled Banner.”



THE ORIGINAL FLAG  
Suspended in front of the Smithsonian Institution



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## CHAPTER IV.

### *The Lawyer.*

As a lawyer he was equalled by few and excelled by none. Among his contemporaries he took first rank, and of most of the important causes the records of those courts before which he practiced disclose his name as attorney on one side or the other. When we recollect the bar of his day was made up of such men as Webster, Clay, Choate, Wm. Pinkney, Luther Martin, Reverdy Johnson, William Wirt, and the bench of such legal giants as Marshall and Story, it is enough to say that he took first rank.

In a letter, dated Baltimore, July 25, 1875, Reverdy Johnson, one of the most distinguished lawyers Maryland and the country ever produced, pays this tribute to his legal and literary talents and attainments:

“My acquaintance with Mr. Key commenced some twenty years before his death, and soon ripened into friendship. I have argued cases with him and against him in the courts of Maryland and in the United States Supreme Court. He had evidently been a diligent legal student, and being possessed of rare ability, he became an excellent lawyer. In that par-

ticular, however, he would, I have no doubt, have been more profound but for his fondness for elegant literature, and particularly for poetry. In this last he was himself quite a proficient. Some of his writings are truly gems of beauty. His style of speaking to a court was ever clear, and his reasoning logical and powerful; whilst his speeches to juries, when the occasion admitted of it, were beautifully eloquent. To the graces of his many accomplishments he possessed what is still more to his praise, a character of almost religious perfection. A firm believer in the Christian dispensation, his conduct was regulated by the doctrines inculcated by its founder and this being so his life was one of perfect purity."

He began the practice of law at Frederick, Maryland, in 1801, but subsequently removed to the District of Columbia, taking up his residence in Georgetown and forming an association in the practice with his uncle, Philip Barton Key. Under Presidents Jackson and Van Buren he was three times appointed United States District Attorney for the District of Columbia, his first appointment being confirmed by the Senate, January 29, 1833, and he was succeeded on July 3, 1841, by Philip R. Fendall. During his administration of the office of United States District Attorney he demonstrated his capabilities for that important position and his keen appreciation for its responsibilities in a most

remarkable manner. While in attendance at the funeral in 1835 of Warren R. Davis, a member of Congress from South Carolina, as President Jackson and his cabinet awaited on the east portico of the Capitol for the remains to be brought from the Rotunda, a man concealed behind one of the large pillars fired at the President. General Jackson was immediately surrounded by his friends, who interposed in his defense, and before the assailant could fire a second shot he was overpowered and taken into custody.

Carried before the Circuit Court of the United States for the District of Columbia, he was given a hearing. Mr. Key, as District Attorney, conducted the examination on behalf of the Government. Bitter feeling against the prisoner was rife, as it was generally believed that the act was instigated by a party of political conspirators led by a prominent man. The assailed was the President of the United States, but what was even more to Mr. Key, his warm personal friend, to whom he owed much, especially his appointment to the office he then held and whose duties imposed upon him the prosecution of the assailant.

Entertaining a strong conviction that in a criminal proceeding the duty of the representative of the government is prosecu-

tion and not persecution—an impartial vindication of the law, and justice between the state and the alleged offender, his self-control and circumspection, notwithstanding he naturally must also have entertained an intense feeling against the culprit, prevented a miscarriage of justice and removed the popular misbelief of a criminal conspiracy against the life of the President, as it was clearly shown by the impartial and careful examination he conducted that the prisoner was insane.

During the Harrison and Van Buren presidential contest in 1840 Georgetown was as much excited and divided over the campaign as any part of the country, and there were lively times between the Whigs and Democrats. After General Harrison's inauguration half a dozen citizens of the town addressed a petition to the President containing accusations against the collector of the port, Robert White, charging the misuse of his office for political purposes and stating that he was obnoxious to his fellow-townsmen.

It was requested that White be removed and Henry Addison appointed in his stead. These requests, or, as lawyers say, the prayers, of the petition were granted. White removed and Addison appointed.

A bitter libel suit by White against those making the charges resulted. Mr. Key, Colonel William L. Brent, and his son Robert J. Brent, represented the plaintiff, while the defendants were represented by General Walter James, Richard L. Coxe, Joseph H. Bradley, John Marbury, and Robert Auld.

The trial came on for hearing before the Circuit Court of the District of Columbia, and the court held that the petition to the President containing the objectionable charges against White, which were the foundation of the suit, being a privileged communication, could not be admitted in evidence or read to the jury. Of course, this ruling lost for the plaintiff his case, but Mr. Key did not stop with this, he promptly carried the case to the Supreme Court of the United States, where he reversed the judgment of the lower court.

A particular consideration of very many of the important cases in which Mr. Key appeared as counsel, is impossible in a book of this size.

However, as the law was his profession and as so little is generally known of him as a lawyer, it is deemed proper that at least a few of the most important ones should be considered.

When the Alexandria Canal Company, under authority conferred by Act of Congress, undertook to construct across the Potomac River an aqueduct for the purpose of connecting with the Chesapeake and Ohio Canal, that Alexandria might likewise use this waterway with Georgetown for transportation, it became necessary to construct a number of piers in the river to support an aqueduct bridge. To properly do this large cofferdams were built, into which a great deal of clay and gravel was dumped. Much of this in one way or the other was spilt on the outside of the dams and washed down stream. Now, the Potomac was, of course, a highway, and in those days used as such a great deal more than at present, and to obstruct the navigation of the river was, of course, a serious matter, and it may be imagined also that Georgetown did not care to see an outlet to the west opened to Alexandria, thus bringing its merchants into competition with her own.

Under rights claimed from a compact between the states of Maryland and Virginia which secured to the citizens of these states the free and unobstructed use of the river, the mayor and the citizens of Georgetown, fearing, as they alleged, that the channel would be obstructed and navi-

gation retarded, applied to the courts for an injunction enjoining the canal company from continuing its operations which they termed a public nuisance. The duty of prosecuting the case devolved upon Mr. Key as Recorder of the town.

Upon the hearing of the case in the Circuit Court of the District of Columbia the injunction was refused and an appeal was taken to the Supreme Court of the United States, where the case was ably argued and some very interesting and nice questions of law raised. Among other things it was contended that the Act of Congress authorizing the construction of the aqueduct was unconstitutional, as under the compact between Maryland and Virginia the city of Georgetown and its citizens had a right of property in the free navigation of the river of which they could not be deprived by an Act of Congress. The Supreme Court, however, affirmed the decree of the lower court, holding that the act was not unconstitutional, and that whatever rights were secured by the compact between Maryland and Virginia were secured to their citizens in their capacity as sovereign states and not as individuals; consequently, upon the cession of the District of Columbia to the United States the rights under such compact passed to the United



States and Congress could, if it thought necessary, abridge them.

In the case of the Bank of Columbia against Okeley, involving another and more important question of constitutional law, Mr. Key, as the attorney for the bank, was, on an appeal to the Supreme Court, more successful. Prior to the cession of the District of Columbia to the United States the legislative assembly of Maryland, in the act incorporating the bank, gave to its president a summary remedy for collecting its debts by which the clerk of the court, upon the sworn application of the president, was required to issue an attachment against the property of any debtor of the bank who had consented in writing that his bonds, bills or notes should be negotiable at the bank. The defendant, Okeley, became liable to the bank for failure to pay such an obligation, and upon the proper application being made to the clerk an attachment issued under which the United States Marshal seized the property of the defendant in satisfaction of the claim.

Okeley's attorneys made a motion to quash the attachment upon the ground that the act of the assembly of Maryland conferring such rights was void for being contrary to both the Bill of Rights of Mary-

land and the Constitution of the United States in that it deprived the defendant of his right of trial by jury guaranteed by those instruments.

The Circuit Court took some such view of the matter, quashing the attachment. On appeal to the Supreme Court of the United States, however, that court held, as provision was made in the law securing to the defendant, after seizure of his property, the right of a trial by jury upon a proper showing and application, all rights guaranteed by either the Bill of Rights of Maryland or the Constitution of the United States were preserved to him.

In connection with this decision it is interesting to note that similar proceedings are now very generally authorized by statute, especially where non-residents and absconding debtors are concerned.

A decision of much interest to taxpayers, or, more properly speaking, to those who do not pay their taxes, is to be found in the case of the City of Washington against Pratt.

In this case, which likewise reached the Supreme Court of the United States, Mr. Key as the representative of Pratt, filed a bill in equity to enjoin the corporation of Washington from executing a deed of

Pratt's property to certain purchasers at a tax sale.

The validity of the attempted sale was attacked by Mr. Key upon some six or seven grounds, all of which the court sustained. The two principal ones being, first; the property was not assessed and sold in the name of the true owner, and, second, that more than one lot was sold when the proceeds from the sale of any one was sufficient to satisfy the taxes upon the whole. The sale was accordingly declared void and set aside.

During the latter years of his life he was engaged, among others, as counsel for Mrs. Myra Clark Gaines in the celebrated controversy known as the Gaines case and which arose by reason of Daniel Clark making two wills, one in 1811 and a second in 1813. By the first he left all of his property to his mother, and the executors thereunder sold a large lot of valuable land belonging to him to the City of New Orleans. By the latter will he left his daughter, Myra Clark Gaines, his sole beneficiary, and upon coming of age and learning of her right she instituted suit in the New Orleans courts to recover her property. In the defense to her suits, among other things her legitimacy was attacked. The case occupied the attention

of the courts, both of Louisiana and the United States, for over a third of a century. Finally, however, Mrs. Gaines won, but it was not until 1867, or twenty-odd years after the death of Mr. Key.

In one of the reports of the case in the Supreme Court of the United States it is observed: "The case, with two accompanying it, constituted the seventh, eighth and ninth appeals to this court of a controversy known as the 'Gaines case.' For more than one-third of a century, in one form and another, it had been the subject of judicial decision in this court, and the records now—complicated in the extreme—reach nearly eight thousand closely printed pages. The court, when the case was last heard before it, spoke of it as 'one which, when hereafter some distinguished American lawyer shall retire from his practice to write the history of his country's jurisprudence, will be registered by him as the most remarkable in the records of its courts.' " Space will not permit of a fuller consideration of the case at this time, but for the information of those who might care to investigate it further it may be concluded by saying full reports can be found in the reported decisions of the Supreme Courts of Louisiana and the United States. Under titles of Gaines vs. Hennen, Freutes

vs. Gaines, and Gaines vs. City of New Orleans. From the fact alone that Mr. Key was engaged in this celebrated case we have no difficulty whatsoever in determining that he stood as high in his profession as any lawyer of his day.

The last case to which I shall refer, is extremely interesting and, although, because of the most happy and fortunate change in the condition of things, is no longer of any practical importance, attracted at the time a large assemblage of refined and intelligent persons of both sexes to the hearing before the Supreme Court of the United States.

The case grew out of the capture of a slave trader off the coast of Florida, then Spanish territory. A Spanish vessel named the *Antelope*, in the act of receiving a cargo of Africans, was captured on the coast of Africa by the *Arraganta*, a privateer manned in Baltimore.

In charge of a prize crew from the *Arraganta* she was carried to the coast of Brazil, and the *Arraganta* being there wrecked, thence to the coast of Florida where she was discovered hovering very near the coast of the United States, by Captain Jackson of the U. S. Revenue Cutter *Dallas*. Supposing her to be either a pirate or engaged in smuggling slaves into

the United States, the captain went in quest of her and, discovering that she carried a cargo of slaves and was manned by officers and men who were citizens of the United States, he brought her into the port of Savannah for adjudication by the United States courts as lawful prize.

The vice consuls of Spain and Portugal interposed claims on behalf of the subjects of their respective countries, to whom it was alleged the vessel and slaves belonged, which claims the United States opposed, upon the ground that the trade in which the vessel was engaged was in violation of the laws of the United States, and now that she and her cargo were within the territorial jurisdiction of this country they were amenable to our laws. The consuls of Spain and Portugal claimed the Africans as slaves who, in the regular course of legitimate commerce had been acquired as property by their fellow subjects and demanded their restoration under the law of nations, and particularly under the terms of a treaty between the United States and Spain which provided that property rescued from pirates should be restored to Spanish owners on their making proof of property.

As the founder and principal promoter of the American Colonization Society, the

object of which was the emancipation and colonization of the negroes, under a protectorate of the United States, on the west coast of Africa, Mr. Key's sympathies with the negro cause were well and favorably known; accordingly, the attorney-general, Mr. Wirt, engaged him to assist in the prosecution of the government's claims in this case. In making the opening argument, Mr. Key, among other things, said:

"The Spanish owners show as proof of property, their previous possession; and the possessor of goods it is said, is to be presumed the lawful owner. This is true as to goods; because they have universally and necessarily an owner. But these are *men* of whom it cannot be affirmed that they have universally and necessarily an owner."

Opposed to Mr. Key were Charles J. Ingersoll, of Philadelphia, and John M. Berrien, of Georgia.

Among the spectators in court was Governor Foote, of Mississippi, and some years afterwards he paid a glowing tribute to the speech of Mr. Key in the following language:

"On this occasion he greatly surpassed the expectations of his most admiring friends. The subject was particularly suited to his habits of thought, and was one which had long enlisted, in a special manner, the generous sensibilities of his soul. It seems to me that he said all that the case demanded, and yet no

more than was needful to be said; and he closed with a thrilling and even an electrifying picture of the horrors connected with the African slave trade, which would have done honor to either a Pitt or a Wilberforce in their palmyest days."

However, public sentiment was not yet abreast with his high and exalted ideas, and for reasons based upon the laws of nations, as then understood, the court, in an opinion written by no less a jurist than the great Chief Justice, John Marshall, held, that as the traffic in which the Spanish vessel was engaged was not in violation of the laws of Spain the ship and her human cargo must be restored to their owners. However, the force and eloquence of Mr. Key's argument was not without effect. It made a profound impression on the court, which Chief Justice Marshall acknowledged at the outset of his opinion in these words:

"In examining claims of this momentous importance, claims in which the sacred rights of liberty and of property come in conflict with each other; which have drawn from the bar a degree of talent and of eloquence, worthy of the questions that have been discussed, this court must not yield to feelings which might seduce it from the path of duty, but must obey the mandate of the law."

Some years after, at a convention of the American Colonization Society, Mr. Key offered this resolution:



*“Resolved, That a committee be appointed to prepare and present a memorial to Congress, recommending such measures to be taken for the protection of the colonies now established on the African coast, the promotion of American commerce on that coast, and the suppression of the slave trade, as the National Legislature may approve.”*

In speaking in favor of its adoption, Mr. Key said:

“Light has pierced into the thick darkness that has long enveloped that outcast continent, and treasures and blessings of a benignant Providence are seen to smile in all her plains and wave in all her forests. It is true this fair creation of God has been marred by the wickedness of man. A trade abominable and detestable beyond all epithets that can be given to it, at the very name of which the blood curdles, and no man hears it who ‘having human feeling does not blush, and hang his head to think himself a man,’ has long since desolated Africa and disgraced the world but  
\* \* \* the dawning of a better day appears  
\* \* \* the virtue and benevolence of man shall repair the outrages committed by the inhumanity of man. The trade that has wasted and debased Africa shall be banished by a trade that shall enlighten and civilize her, and repeople her solitary places with her restored children, and Africa thus redeemed and rescued from curse, and the world from its reproach, shall vindicate the ways of God to man.”

Could these hopes have been realized what inestimable blessings would not have

been bestowed upon both races and our country?

As well as a large practice before the courts, Mr. Key enjoyed an equally as large and lucrative one before the Executive Departments of the Government, especially the War Department and the General Land Office before which he prosecuted and represented many claims for claimants from every section of the country, including Wisconsin, Missouri, Arkansas, South Carolina, Tennessee, and Alabama. Land claims on behalf of both white and Indian claimants, pension claims on behalf of widows and orphans, salaries and allowances due army and navy officers and claims for provisions furnished the army by different persons at various times.

Under date of June 6, 1835, W. R. Hallett writes Mr. Key from New York recalling that he had the pleasure of his acquaintance at Tuscaloosa, Ala., when he, Hallett, was a member of the Alabama Legislature. The object of the letter was to engage Mr. Key to represent him during his absence abroad in some matters pending at the time before the Land Office. And again over three years later, under date of August 27, 1838, Mr. Hallett writes him from Mobile to the effect that on behalf of his, Hallett's, friend, Joshua Kennedy, he

is enclosing Mr. Key a check for one thousand dollars, with a view of retaining Mr. Key's services for Mr. Kennedy, saying that Mr. Kennedy requests him to attend to his business generally, such as he may have before Congress and the Supreme Court, and that he wishes him not to take any business against him. Coming as these letters do from acquaintances made in Alabama while there upon a delicate and important mission for the Government, there could not possibly be a stronger testimonial of the ability and dignity with which he conducted both the matter intrusted to him and himself.

To consider at any length the numerous cases would serve no good purpose. The papers and correspondence are very voluminous. However, it may be mentioned that one case he fought through two hearings before the Commissioner of the Land Office, one hearing before the Attorney General of the United States, to whom it was referred, and then upon brief and letter before the Hon. Levi Woodbury, Secretary of the Treasury, and finally upon bill in chancery before the Circuit Court of the United States for the District of Columbia. The case grew out of a controversy between adverse claimants of 640 acres of land lying between the Des Moines

and the Mississippi Rivers. Mr. Key's clients, Samuel Marsh and others, claimed title to the land by purchase from the half-breed Sac and Fox Indians under a treaty made between the United States and the Indians reserving title to the lands in the Indians with the right to sell if they desired. The other claimants were the heirs of Thomas F. Reddick, who claimed title under an old Spanish grant prior to the treaty under which the United States acquired Louisiana, of which territory the lands were a part. Albert G. Harrison and Edward Brooks represented the Reddick heirs. Both sides hotly contested the cause and there appears to have been created some little feeling between counsel. In a letter to the Secretary of the Treasury, Mr. Key, in speaking of his opponent, Mr. Harrison, says: "As to his patience being exhausted and his passion excited, I have nothing to say. This gives him, I presume, no peculiar claims to consideration, though it may seem to excuse in some measure the passion of his communication in which he speaks of 'taking steps to show the country the great injustice that has been done to those he represents.' I should regret to think that he expected to gain anything by such an intimation. What have his clients to complain of? What course has been

taken with them that has not been taken with all claimants whose claims are contested by conflictory claimants?"

In an opinion written entirely in his own hand and signed, Mr. Key, under date of February 12, 1839, says: "I have fully examined all the documents and title papers and evidences in relation to the claims of the heirs of Thomas F. Reddick to 640 acres, for which a patent has been recently issued to them," and, continuing, "I consider the title to the half-breeds, or those who have purchased from them, as unquestionably a superior title and unaffected by this patent—the holders under the half-breeds should compel the holders of this patent to bring an ejectment on it in the territorial court, or they may at once file a bill in equity in the same court to vacate the patent."

The case is an extremely interesting one, but the limits of this little volume will not permit of a further discussion of it.

However, enough has been related of the cases in which he figured to give a clear insight into both his character and ability.

We find him courteous and properly generous in his dealings with both his clients and the attorneys with whom he is associated or opposed. Fearless of both men and things because his conscience was ever

clear. Impetuous at times, perhaps, but never without self-control. Respectful of the opinions of others, at the same time demanding the same of them, and intolerant when denied. Earnest and energetic in all he undertook. A hard student and an excellent man and lawyer.

## CHAPTER V.

### *The Statesman and Diplomat.*

A statesman, rather than a politician, Speaker Reed's definition to the contrary notwithstanding, he believed, as he wrote John Randolph, that a man had no more right to decline public office than to seek it.

In a discourse on education, delivered February 22, 1827, before the Alumni of St. John's College, in St. Ann's Church, Annapolis, he points out the duty of the state to its citizens in a fearless and most remarkable manner:

"There are and ever will be," says he, "the poor and the rich, the men of labor and the men of leisure, and the state which neglects either neglects a duty, and neglects it at its peril for whichever it neglects will be not only useless but mischievous.

"It is admitted that the neglect of one of these classes is unjust and impolitic. Why is it not so as to the other? If it is improper to leave the man of labor uneducated, \* \* \* is it not at least equally so to leave the man of leisure, whose situation does not oblige him to labor, and who, therefore, will not labor, to rust in sloth or riot in dissipation?

"This neglect would be peculiarly unwise in a government like ours, luxury is the vice most fatal to republics, and idleness and want of education in the rich promote it in its most

disgusting forms. Nor let it be thought that we have no cause to guard against this evil. It is perhaps the most imminent of our perils."

In view of some recent disclosures of the riotous living of the uneducated sons of some of our rich men, the prophetic truth of this prediction is quite apparent.

A great lawyer, as we have seen, with remarkable oratorical powers in the forum of legal debate, he was likewise, when occasion required, equally brilliant and convincing in the field of popular oratory. Although not caring to mix in with politics to any great extent, nevertheless, when he considered the good of a worthy cause demanded his services he was prompt to take the stump in its behalf. In this way he is known to have stumped, not only his native state, Maryland, but Pennsylvania and Virginia also, and on such an occasion at Frederick, Maryland, in paying an extemporaneous tribute to his country, his great mind, grasping the situation of the future as well as the present, sounded a keynote which, in the words of prophecy, ring even more true now than then, a timely and mighty warning. These were his words:

"But, if ever forgetful of her past and present glory, she shall cease to be 'the land of the free and the home of the brave,' and become the purchased possession of a company of



stock jobbers and speculators, if her people are to become the vassals of a great moneyed corporation, and to bow down to her pensioned and privileged nobility, if the patriots who shall dare to arraign her corruptions and denounce her usurpations, are to be sacrificed upon her gilded altar; such a country may furnish venal orators and presses but the soul of national poetry will be gone. That muse will 'Never bow the knee in mammon's fane.' No, the patriots of such a land must hide their shame in her deepest forests, and her bards must hang their harps upon the willows. Such a people, thus corrupted and degraded,

'Living, shall forfeit fair renown,  
And, doubly dying shall go down,  
To the vile dust from whence they sprung,  
Unwept, unhonored and unsung.' "

In appreciation of the trust and confidence which can be reposed in such sterling qualities, President Jackson singled him out for a mission to Alabama of the utmost delicacy and importance.

In the early spring of 1832 the United States made a treaty with the Creek Indians, under the terms of which the Indians conditionally ceded to the United States all their lands east of the Mississippi River. By the provisions of the fifth article of the treaty there was imposed upon the United States three duties—first, subject to the exceptions therein made, the removal of all the settlers from the whole of the ceded territory; second, the survey

of the country and location of the Indian reservations therein; third, for a period of five years from the ratification of the treaty the removal of all persons found upon the reservations so located.

The manner of removal the government found in an Act of Congress, approved March 3, 1807, entitled "An Act to prevent settlements being made on lands ceded to the United States, until authorized by law." The Act provided that intruders upon the public lands should be removed by the United States Marshal, aided by the military, if necessary, acting under the orders of the President.

The tract ceded by the Creek Treaty comprised nine southern counties of the State of Alabama and contained, in addition to the Indians, a population of nearly three thousand white persons, emigrants from North and South Carolina, Georgia, Tennessee, and Kentucky, as well as from other parts of Alabama.

Each county had its full quota of state officials; and judges, magistrates, sheriffs, notaries public and other officers were appointed from among the settlers. All the necessary and usual tribunals for the administration of justice and the preservation of the peace were established and law and order prevailed.

Such was the situation during the summer and early fall of 1833 when the United States Marshal for the southern district of Alabama, acting upon instructions from the President, undertook the herculean task of expelling an entire community populated by representatives of a thrifty and determined race that so dearly loves the sway of empire that it has never yet been known to yield dominion, once acquired.

Besides, as is the way with the pioneer settler, most, if not all, had exchanged their means of transportation for implements of husbandry and were without the means to remove. Fairly prosperous, contented and happy, maintaining themselves and their families by the tillage of the soil, as a whole they disturbed no one and were quick to resent their being disturbed.

Furthermore, the powers of the general government not being as generally well known and understood then as now, they were very much inclined to dispute the right of the United States to disturb them.

In their rights, as they understood them, they were, in the main, supported by the Governor of Alabama, the Honorable John Gayle, who, in a lengthy letter to the Secretary of War, objected to the employment of the military force to remove the settlers, and without questioning the constitution-

ality of the Act of Congress under which the Marshal, aided by the military, was endeavoring to enforce the stipulations of the Creek Treaty, he argued that Congress in passing the act did not contemplate a case in which the ceded territory was situated within the jurisdictional limits of a state over which the administration of state laws prevailed and within which were established her courts of justice and other tribunals for the government of the people.

That the enforcement of the President's orders, carrying with it, as it necessarily did, the expulsion of all the settlers without discrimination would deprive the state of all means of enforcing its laws within the territory, thereby rendering the administration of justice and the suppression of crime impossible.

Furthermore, the treaty did not contemplate the removal of the settlers who had not wronged the Indians and who in settling upon the land solely for the purpose of cultivation had no intention of claiming title thereto.

In reply, under date of October 22, 1833, the Secretary wrote the Governor that the right of the state to extend its jurisdiction over the ceded district was not questioned, but the ownership of land and jurisdiction over it were distinct questions.

The United States in this instance, he said, was a great land holder, possessing under the Constitution the right to make "All needful rules and regulations concerning their territory and property," and that it had made a regulation by which intruders on government lands should be removed, which regulation, in the employment of the military force, when necessary, acting under orders of the President, was but repelling force with force and exercising no more stringent measures than were conceded to an individual under like circumstances, and it could not be supposed the government was less secure in its rights.

He met the Governor's objection that the enforcement of the President's orders deprived the state of the means of maintaining law and order in a large part of its domain with the suggestion that until the locations could be made under the treaty it would not be impracticable to attach the whole of the ceded territory to one or more of the organized counties of the state where the public lands had been sold, "thus providing for the complete exercise of both civil and criminal jurisdiction, without interfering with the property of the United States."

The Honorable Clement C. Clay, then a representative in Congress from Alabama, in a letter to the Secretary of War, pointed out a distinction between the case of settlers occupying public lands with the presumed acquiescence of the government and a mere trespasser, the former, he said, could not be dealt with and treated as a wrongdoer.

A fierce controversy ensued resulting in open resistance to the Marshal, and upon the United States troops, under command of Major James L. McIntosh, stationed at Fort Mitchell, Alabama, being ordered to assist in the removal of the settlers, a riot resulted. Several towns were burned and a settler named Hardeman Owen, was shot and killed by a soldier. The entire frontier was quickly in a terrible state of excitement.

Immediately indictments were found against the Deputy Marshal, Austelle, Lieutenant David Manning, and three privates, charging them with the murder of Owens, but upon the sheriff attempting to execute the warrants and arrest the soldiers, Major McIntosh interposed, and the warrants were returned into court indorsed "Not served for fear of being killed."

An attachment for contempt of court issued against Major McIntosh, being likewise treated with contumely, the court immediately requested of the Governor a sufficient force of militia to secure obedience to the mandates of the law and the court.

Instead of complying with this request the Governor enclosed all the papers in a letter to the Secretary of War, with the request that the President's attention be directed to them, whereupon a truce followed.

The situation, however, aroused the greatest indignation throughout the entire country. A company of young men from New York State, headed by J. VanVleck and N. G. Rosseter, in a letter to Governor Gayle, dated, Hudson, New York, December 29, 1833, volunteered their military service to the cause of Alabama. To the Secretary of War were sent anonymous letters, in which the writers stated a Union man within the ceded territory had no defense but his arms, and that they were willing and ready to shoulder theirs in defense of the Constitution and the laws of the United States.

Another such letter, dated Creek Nation, December 10, 1833, stated that a General Woodward was endeavoring to raise a

company in defense of the intruders against what they termed Federal bayonets, and the Deputy Marshal wrote the Secretary of War confirming such rumors, saying he had been reliably informed that the militia had been ordered to hold themselves in readiness.

On October 31, 1833, when the controversy was at its height, the Secretary of War, by direction of the President, addressed a letter to Mr. Key, informing him that it was the wish of the President that he repair to the district within the State of Alabama ceded to the United States by the Creek Indians and examine into the state of things arising out of the government's instructions for the removal of the intruders.

He was further instructed, immediately upon his arrival, to communicate with the military officers, the Marshal, Deputy Marshal, and the United States Attorney for the Southern District of Alabama, and inform them that the government greatly desired to preserve the proper ascendancy of the civil authority, and that the military officers were to follow the directions of the Marshal, and both were to be governed by his, Mr. Key's, advice in everything relating to the execution of their duty. As broad powers, it is submitted, as ever were



given to a representative of our government. That he was to advise them to submit to all legal process from the state courts and conduct their defense before both the state and United States courts whenever it became necessary.

Should he deem a proceeding before a state court to be vexatiously conducted he was to remove the case, if possible, to the United States courts for determination, and should any officer of the United States be arrested by process from the state courts while in the discharge of his duty, he was to apply to the United States District Judge for a writ of habeas corpus and move for his discharge. In conclusion, he was authorized, if he deemed it expedient, to communicate with the Governor of Alabama and explain his instructions.

Mr. Key arrived at Fort Mitchell on the eleventh day of November, 1833, and, as we have seen, his instructions left him free to act as he thought best. What evil consequences might not have ensued to the nation had powers thus broad, at so critical a moment, been entrusted to one less capable and sincere it is impossible to say. To his everlasting fame and credit, it should ever be remembered, he so conscientiously and diplomatically handled the delicate situation that at the expiration

of nineteen days from the date of his arrival he had the matter so well in hand he was enabled to report to the Secretary of War that he believed an amicable settlement could be effected in accordance with the wishes of the President.

On December 16, 1833, upon the written request of Governor Gayle, he wrote him the terms of the general government, stating that none other could be had.

Briefly, these were that the locations would be completed by the fifteenth day of the January following, and that the lands lying outside of the reservations would be released from the effect of the orders of removal, while those settlers whose lands were found to be within the reservations would be accorded an option of purchasing their lands from the Indians before being required to remove. If the state would accept these conditions the government would suspend the further enforcement of its orders until after the surveys of the locations were made.

A couple of days later he received assurances from the Governor that the terms were satisfactory, and a little later the further assurance that now that the state officials understood the purpose of the government the legislature would co-operate in seeing that justice was done between the

settlers and the Indians by the enactment of a law making it penal for any person to occupy land within which was located a reservation without a title from the Indians.

On December 18, 1833, less than six weeks, it can be seen from the date of his arrival, he set out for his home in the District of Columbia, having accomplished the full object of his mission without the necessity of asking permission to concede a single point in the negotiation of the settlement, and without having to resort to the courts or other coercive measures.

The history of this most critical complication is given somewhat in detail, that the delicacy and importance of the situation, being better understood, the great service rendered his country at this juncture may be fully appreciated. His negotiations brought him frequently a guest to the home of Governor Gayle, and Mrs. Gayle, in her journal, has left some very interesting glimpses of the social side of the visit. Among other things, she says: "Francis Scott Key, the District Attorney for the District of Columbia, is here at present for the purpose of assisting to settle the Creek controversy. He is very pleasant—intelligent you at once perceive. His countenance is not remarkable when at rest, but

as soon as he lifts his eyes, usually fixed upon some object near the floor, the man of sense, of fancy, and the poet is at once seen. But the crowning trait of his character, I have just discovered, he is a Christian.’’

As the author of America’s national song, his fame had preceded him. The young ladies of Tuscaloosa, vieing with each other, concocted many clever schemes to gain for their albums a stanza or two of original verse from the poet’s pen.

One of these, Miss Margaret Kornegay, the niece of Senator William R. King, conceived the idea of making a rhymed request and prevailed upon Mrs. Gayle, who was a clever poet herself, to write one for her, which Mrs. Gayle did in the following lines:

TO MR. F. S. KEY.

“Thanks, gentle fairy—now my album take  
And place it on his table ere he wake,  
Then whisper, that a maiden all unknown,  
Claims from the poet’s hand a trifling boon;  
Trifling per chance to him, but oh! not so  
To her whose heart has thrilled, long, long ago,  
As his inspiring lays came to her ear,  
Lending the stranger’s name an interest dear.  
A timid girl may yet be bold to admire  
The Poet’s fervor, and the Patriot’s fire;  
But ’tis not these—though magical their power  
They cannot brighten woman’s saddened hour,  
And she, the happiest, has saddened hours,

When all life's pathways are bereft of flowers,  
And her bowed spirit feels, as felt by thee,  
That to 'live always' on this earth would be  
For her, for all, no happy destiny.  
Poet and Patriot! Thou may'st write for fame,  
But by a tenderer and holier name  
I call thee—Christian! write me here one lay,  
For me to read and treasure when thou art  
away."

The album, together with the verse, was secretly placed on the table in Mr. Key's room.

The stratagem worked well, and like begot like, which was evidently expected. The muse was awakened in his breast and Miss Kornegay, in the stanzas following, received the coveted contribution.

"And is it so? a thousand miles apart,  
Has lay of mine e'er touched a gifted heart?  
Brightened the eye of beauty? won her smile?  
Rich recompense for all the poet's toil.  
That fav'ring smile, that brightened eye,  
That tells the heart's warm ecstasy,  
I have not seen—I may not see—  
But, Maiden kind! thy gift shall be  
A more esteemed and cherished prize  
Than fairest smiles or brightest eyes.  
And this rich trophy of the poet's power  
Shall shine through many a lone and distant  
hour:  
Praise from the fair, how'er bestowed, we  
greet;  
In words, in looks outspeaking words, 'tis  
sweet;

But when it breathes in bright and polished  
lays

Warm from a kindred heart, this, this is  
praise.

We are not strangers; in our hearts we own  
Chords that must ever beat in unison;  
The same touch wakens them; in all we see,  
Or hear, or feel, we own a sympathy;  
We look where nature's charms in beauty rise,  
And the same transport glistens in our eyes.  
The joys of others cheer us, and we keep  
A ready tear, to weep with those who weep.  
'Tis this, that in the impassioned hour,  
Gives to the favored bard the power,  
As sweetly flows the stream of song,  
To bear the raptured soul along,  
And make it, captive to his will,  
With all his own emotion thrill.  
This is a tie that binds us; 'tis the glow,  
The 'gushing warmth' of heart, that Poet's  
know.

We are not strangers—well thy lines impart  
The patriot's feeling of the poet's heart.  
Not even thy praise can make me vainly deem  
That 'twas the poet's power, and not his theme,  
That woke thy young heart's rapture, when  
from far

His song of vict'ry caught thy fav'ring ear:  
That victory was thy country's, and his strain  
Was of that starry banner that again  
Had waved in triumph on the battle plain,  
Yes, though Columbia's land be wide,  
Though Chesapeake's broad waters glide  
Far distant from the forest shores  
Where Alabama's current roars;  
Yet o'er all this land so fair  
Still waves the flag of stripe and star;  
Still on the warrior's banks is seen,  
And shines in Coosa's valley green,  
By Alabama's maiden sung  
With patriot heart, and tuneful tongue.

Yes, I have looked around me here  
And felt I was no foreigner;  
Each friendly hand's frank offered clasp  
Tells me it is a brother's grasp:  
My own I deem these rushing floods,  
My own, these wild and waving woods,  
And—to a poet, sounds how dear!—  
My own song sweetly chanted here.  
The joy with which these scenes I view  
Tells me this is my country too;  
These sunny plains I freely roam;  
I am no outcast from a home,  
No wanderer on a foreign strand,  
'This is my own, my native land.'

We are not strangers: still another tie  
Binds us more closely, more enduringly;  
The Poet's heart, though time his verse may  
    save,  
Must chill with age, and perish in the grave.  
The Patriot too, must close his watchful eye  
Upon the land he loves; his latest sigh  
All he has left to give it, ere he die.  
But when the Christian faith in power hath  
    spoke  
To the bowed heart, and the world's spell is  
    broke,  
That heart transformed, a never-dying flame  
Warms with new energy, above the claim  
Of death t' extinguish;—oh! if we have felt  
This holy influence, and have humbly knelt,  
In penitence, for pardon; sought and found  
Peace for each trouble, balm for every wound;  
For us, if Faith this work of love hath done,  
Not alike only are our hearts—they're one;  
Our joys and sorrows, hopes and fears, the  
    same—  
One path our course, one object all our aim;  
Though sundered here, one home at last is  
    given,  
Strangers to earth, and fellow heirs of Heaven.

Yes! I will bear thy plausible strain afar,  
A light to shine upon the clouds of care,  
A flower to cheer me in life's thorny ways,  
And I will think of her whose fav'ring lays  
Kind greeting gave, and in the heart's best hour  
For thee its warmest wishes it shall pour.

And may I hope, when this fair volume brings  
Some thought of him who tried to wake the  
strings  
Of his forgotten lyre, at thy command—  
Command that warmed his heart, and nerved  
his hand—  
Thou wilt for one, who in the world's wild  
strife  
Is doomed to mingle in the storms of life,  
Give him the blessing of a Christian's care,  
And raise in his defence the shield of prayer."



## CHAPTER VI.

### *The Star Spangled Banner.\**

Having wantonly destroyed the American Capital, "the seat of Yankee Liberty," as Cockburn termed it, the British, fearing that the American troops, reinforced from the surrounding country, would return during the night to vindicate their wrongs and punish the outrages, under cover of darkness, the same evening, leaving their campfires burning to conceal their movements, made good their retreat to their ships in the Patuxent. Numerous stragglers from their ranks now pillaged the inhabitants of the towns and farms of the country through which the retreating army passed.

At Upper Marlborough, a town situated about sixteen miles from Washington on the road leading to Benedict, especially noted in that day for the refinement and culture of its people, lived Dr. William Beans, a highly respected citizen and prominent physician.

On the afternoon of the succeeding day, after the so-called battle of Bladensburg,

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\*The complete verse is to be found in the Appendix



THE STAR SPANGLED BANNER

Another View

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the Doctor was entertaining several friends, among them Dr. William Hill and Mr. Philip Weems, at the spring house in the garden in the rear of his residence, when a party of these marauding stragglers, dusty, tired and greatly belated, having been caught and drenched in a terrific wind and rain storm, reported to have been the severest experienced in years, came into the Doctor's garden and intruded themselves upon him and his little company.

Elated over their supposed victory of the day previous, of which the Doctor and his friends had heard nothing, they were boisterous, disorderly and insolent, and upon being ordered to leave the premises became threatening. Whereupon, at the instance of Dr. Beans and his friends, they were arrested by the town authorities and lodged in the Marlborough jail. One brawny fellow, however, succeeded in making good his escape during the night, regained his company, and reported the arrest in a most exaggerated manner, stating that they had been horribly maltreated; that the Doctor had tried to poison some of the men, and that those still in custody were in peril of their lives.

Admiral Cockburn, vindictive by nature anyway, and seeing in the case a good op-

portunity for revenge, immediately despatched a squad of marines to Dr. Beans' residence with orders to arrest him. They arrived there about one o'clock in the morning, breaking in the door of his residence, dragging the Doctor out of bed, hardly giving him time to dress, and marched him, half clad, astride a bareback mule, through the woods to the British lines. Here he was refused a hearing, placed in irons and imprisoned in the hold of one of the British ships like a convicted felon.

The news of the arrest and the rough treatment of the Doctor quickly spread through the town and naturally aroused the greatest indignation. On the next evening Mr. Richard West arrived at the residence of Mr. Key in Georgetown, and telling him of the arrest and treatment of his fellow-townsmen, explained that he had called at the instance of the Doctor's friends in Marlborough to say that, having themselves failed in their efforts to secure the release of the Doctor, being even refused permission to see him, they were alarmed for his safety and thought it advisable for him—Mr. West—to call and request Mr. Key to obtain, if possible, the sanction of the Government for his going to the British Admiral, under a flag of

truce, to intercede for the Doctor's release, and it was hoped that Mr. Key would undertake the mission.

As may be readily imagined, this was not an easy or pleasant undertaking, but believing it to be his duty, Mr. Key cheerfully complied. Sending his family to his father's estate at Pipe Creek, Maryland, he applied to the Department of State for the necessary letters, and having received them, on the morning of the 3rd of September, 1814, left his home to go to Baltimore for the purpose of securing the co-operation of Col. John S. Skinner, the agent of the United States for Parole of Prisoners, at that port, afterwards a prominent editor and publisher and Assistant Postmaster-General of the United States, to whom he carried a letter from the Department, authorizing him to aid Mr. Key in his efforts to secure the release of Dr. Beans. Neither of them knew definitely where to find the British fleet, but, supposing it to be somewhere in the Chesapeake, they set sail from Baltimore in the United States cartel ship "Minden," in search of it.

With our present-day facilities for rapid travel and communication we are apt to underestimate the hazards of such a journey. We should not, therefore, forget that

a trip from Washington to Baltimore, in those days of stage coach travel was a day's journey, and that a sail from Baltimore to the mouths of the Patuxent and Potomac Rivers, a distance of over one hundred miles, at which point they met the British fleet, required all of two days under the most favorable conditions. If we presume, therefore, that Mr. Key left Baltimore, in company with Colonel Skinner, on the morning of the 5th of September or the morning of the next day after leaving his home in Washington, he could not have met the British fleet before the evening of the sixth and possibly the morning of the seventh, depending upon the winds. History records that he returned to Baltimore with the fleet, arriving at North Point on the morning of the tenth, and that he was not permitted to leave until the morning after the bombardment of Fort McHenry, which was the fourteenth. It will be seen, therefore, to all intents and purposes, he and his party were prisoners in the British fleet for at least a week. From all accounts this does not appear to be fully realized. But to return to our narrative. Upon meeting with the British they were courteously received by Admiral Cochrane, upon the British ship "Surprise," but when Mr. Key made known his mission he found the

Admiral in no mood to comply, and he was frankly informed that as Dr. Beans had been instrumental in inflicting the most atrocious injuries and humiliations upon the British troops and deserving the severest punishment, the British Admiral had determined upon hanging him to the yard arm of his vessel.

Exactly how Mr. Key at length prevailed upon the Admiral and succeeded in carrying his point, if ever related, has never been preserved. It is supposed that the many and warm expressions of appreciation for the kindnesses and careful treatment shown the wounded and suffering British officers by Dr. Beans, contained in letters from these officers to their comrades, which Colonel Skinner now brought and delivered, had much to do with Mr. Key's success. However this may be, it is not unreasonable to believe that if such had been the sole cause more would have been definitely known about it. Recollecting Mr. Key's strong personality, his affable manner and frank sincerity, it is not assuming at all too much to say that in all probability his own eloquent and masterful presentation of the case, in which he used the fact of Dr. Beans' kindness to the British to the very best advantage, as well as the improbability, if not impossibility,



of one enjoying the esteem and respect of his neighbors to the degree that the Doctor did, and, as Mr. Key now took occasion to forcibly point out, could not possibly have been guilty of the charges preferred against him, had as much, if not more, than all else to do with securing the release of the noted Marlborough physician.

Having once accomplished the object of their most unpleasant errand, the American party would gladly have returned to their homes. The Admiral, however, fearing they had gained, by their presence within his fleet, some information which might be used to the detriment of his purpose, informed them that although he would release Dr. Beans, they would have to be detained for a few days until after the determination of an expedition which he was about to make, assuring them at most it would be but a short while. They accordingly remained aboard the British ship "Surprise" until the arrival of the fleet at the mouth of the Patapsco on the morning of September 10th, when they were transferred, under guard of British marines, to their own vessel, the "Minden" and anchored in a position from which they could witness all that would transpire, that their humiliation might be the more complete from the victory which the British were

confident of acquiring over their countrymen, within a couple of hours. With bated breath and throbbing hearts, unconscious of the glorious part their little expedition was destined to play in the history of their country, the lonely, distressed and anxious little party of patriots, under the derisive scorn of their captor's guard, watched the landing at North Point, a distance of twelve miles from the city of Baltimore, of nine thousand soldiers and marines under the command of General Ross, preparatory to an attack upon their country.

The activity of the British now was great—such an army could not be landed and formed in position in a day. In fact, from the time intervening between the morning of the tenth, when the fleet first appeared at North Point, until the morning of the thirteenth, when the attack began, it is shown three days were necessary. During this time Mr. Key from the deck of his prison ship had ample opportunity to observe the movements of the enemy and reflect upon the situation and the probable outcome.

The total rout of the militia at Bladensburg and the consequent horrors of the burning of Washington, events so very recent, were fresh in his mind, and now, while watching these extensive prepara-

tions for a similar attack on the principal city of his native state, must have been recalled very vividly.

Only five days previous he had been in that beautiful and progressive city whose doom fate now seemed rapidly sealing. He knew the comparative strength of its defenses, both by land and water, and was also well aware that engaged therein were, unfortunately, no such trained and hardened veteran soldiers as he saw landed for its attack and destruction. At best a small army of raw militia, similar to, and in fact partly composed of that which had been so easily routed at Bladensburg, was all there was to meet and engage the intruders. The boastful remark of General Ross "that he did not care if it rained militia, he would take Baltimore and make it his winter headquarters," in the misgivings of the awful moment seemed to savor more of truth than bravado.

Under such trying circumstances the most phlegmatic nature must have been moved, while the imagination stands aghast to conceive the sensations of his intensely patriotic one. Alternate fear and hope spread alarm in his patriotic breast, as he witnessed the landing of the last of the British troops and saw them drawn up

in hostile array upon the shores of his country.

The fleet now closed in upon the little fortress, forming a semi-circle about two and a half miles off its breastwork, from which position of safety it could throw its bombs and missiles of death and carnage without being within reach of the American guns. Under different circumstances the maneuvers would have been grand to witness, but now, to him so situated, their terrors and horrors cannot be imagined, let alone described.

Wafted by a calm September morning's breeze came the booming of cannon and the roar of rapid-firing musketry from the direction of the road leading from North Point to Baltimore, heralding the clash of arms in a death struggle between the well trained and serried ranks of the British regulars and the gallant stand of a small body of freemen in defense of their homes and firesides.

From the harrowing thoughts of their speedy and certain defeat and destruction he turned with faint heart to the little fort crowning the promontory of Whetstone Point. This little place, although light, had some finely planned batteries mounted with heavy guns, as Admiral Cockburn, on

a previous visit had the pleasure and satisfaction of learning.

Its garrison of artillery was under the command of Major George Armistead, U. S. A., Judge Joseph Hopper Nicholson, the brother-in-law of Mr. Key, was in command of a volunteer battery of artillery, ranking second in command of the fort.

Prompted by the same spirit of indiscretion, vacillation and, it may even be said, cowardice, as was largely responsible for the sad fate of Washington, the Administration had sent Major Armistead orders to surrender. The Major, however, was of different material; he had not been accustomed to giving up without a fight, and this brave and gallant officer, risking the punishment and disgrace of a court-martial as coolly as he fired at the British, disobeyed his orders.

Early Tuesday morning, the thirteenth of September, the British, keeping well out of the range of the guns of the fort, began their attack with six bomb and a few rocket vessels. Major Armistead, fully cognizant that his forty-two pounders would not carry as far as the enemy's guns, patiently bided his time and waited for the British to come within range, firing only occasionally to let them know the fort and garrison had not surrendered. The Brit-

ish, from their vantage point of safety, pumped their heavy bombs upon the little fortress with such rapidity, it is said, "four or five bombs bursting in the air at once made a terrific explosion." Some of these bombs were afterwards found intact and weighed from 210 to 220 pounds.

From six o'clock in the morning, when the attack began, until three in the afternoon, there was no change in the tactics of the British. At the latter hour, however, either tiring of their one-sided game or becoming a little bolder, some few vessels came nearer the fort and within range of its guns. Its brave defenders, now having the opportunity for which they had reserved their ammunition and waited were not long in taking advantage of it. Opening fire with deliberate aim they literally hailed shot and shell upon their antagonists, making it so hot for them that they were glad to slip their cables and sail away quicker than they came, "throwing their bombs with an activity excited by their mortification," as an eye witness chronicles.

Again the fight was resumed from a distance where the British could throw their bombs upon the fort without getting within range of its guns. As the afternoon waned the cool, gentle breeze of approaching

evening stirred the turbid atmosphere and catching the folds of our flag, then drooping around its staff, unfurled it from its proud position over the ramparts in a last salute as it were to departing day. A shell pierced the banner, tearing from its constellation, a star. Once more the gentle winds of Heaven were kind—a slight tremor from the recoil—and the banner of the free and the brave again floated out defiantly before the mouths of the English guns, bathed in the delicate hues of the “twilight’s last gleaming” as the shroud of night fell, closing from sight each floating stripe and star.

Unable longer to discern the movements of the fleet, or see the flag of his country, his comrades, worn and fatigued, retired below. Not so with him, an instrument in the hands of destiny—his sleepless anxiety knew no rest. In the regularity of his paces upon the deck were recorded those patriotic heart throbs from which were to come the genius of the song.

A resultant fortitude from a most sublime Christian faith alone sustained him and sent that consolation of which he tells us in his own beautiful words, “the rockets’ red glare and the bombs bursting in air, gave proof through the night that our flag was still there.”

Between two and three o'clock in the morning the British, with one or two rocket and several bomb vessels manned by twelve hundred picked men, attempted, under cover of darkness, to slip past the fort and up the Patapsco, hoping to effect a landing and attack the garrison in the rear.

Succeeding in evading the guns of the fort, but unmindful of Fort Covington, under whose batteries they next came, their enthusiasm over the supposed success of the venture, gave way in a derisive cheer, which, born by the damp night air to our small party of Americans on the "Minden," must have chilled the blood in their veins and pierced their patriotic hearts like a dagger.

Fort Covington, the lazaretto and the American barges in the river now simultaneously poured a galling fire upon the unprotected enemy, raking them fore and aft, in horrible slaughter. Disappointed and disheartened, many wounded and dying, they endeavored to regain their ships, which came closer to the fortifications in an endeavor to protect the retreat. A fierce battle ensued, Fort McHenry opened the full force of all her batteries upon them as they repassed, and the fleet responding with entire broadsides made an explosion



so terrific that it seemed as though Mother Earth had opened and was vomiting shot and shell in a sheet of fire and brimstone. The heavens aglow were a seething sea of flame, and the waters of the harbor, lashed into an angry sea by the vibrations the "Minden" rode and tossed as though in a tempest. It is recorded that the houses in the city of Baltimore, two miles distant, were shaken to their foundations. Above the tempestuous roar intermingled with its hubbub and confusion were heard the shrieks and groans of the dying and wounded. But alas! they were from the direction of the fort. What did it mean? For over an hour the pandemonium reigned. Suddenly it ceased—all was quiet, not a shot fired or sound heard, a deathlike stillness prevailed, as the darkness of night resumed its sway. The awful stillness and suspense was unbearable. "The hurley burley o'er and done"—the battle both "lost and won," but how Mr. Key did not know, or had he any means of knowing. Was the last terrific display a gallant final effort of his countrymen before surrender? And were those cries and shrieks the groans of his fellow American patriots, whose hearts, like his own, lay bleeding? O Mind of Man! dubbed thou "the mistress of the world," can your



O day can you see through by the dawn's early light,  
 while is pouring in light at the twilight last gleaming,  
 whose broad stripes & bright stars through the perilous fight  
 O'er the ramparts we watch'd, wave so gallantly streaming?  
 And the muffled drum, the drum beating a bug,  
 from half through the night that our flag was still there,  
 O day does that star-spangled banner yet wave  
 O'er the land of the free & the home of the brave!

On the shore dimly seen through the mists of the deep,  
 where the foe's haughty host in dread silence reposes,  
 what is that which the breeze, o'er the towering steep,  
 As it fitfully blows, half conceals, half discloses?

Now it catches the gleam of the warrior's rusted spear,  
 as the full glow, reflected, waves above in the stream,  
 'Tis the star-spangled banner — O how many it waves  
 O'er the land of the free & the home of the brave!

And where is that band who so valiantly prove,  
 that the havoc of war & the battle's confusion  
 A home & a Country should leave us no more?

— ~~There~~ <sup>There</sup> ~~the~~ <sup>the</sup> ~~band~~ <sup>band</sup> ~~has~~ <sup>has</sup> ~~waved~~ <sup>waved</sup> ~~out~~ <sup>out</sup> ~~this~~ <sup>this</sup> ~~first~~ <sup>first</sup> ~~forlorn~~ <sup>forlorn</sup> ~~hope~~ <sup>hope</sup> ~~of~~ <sup>of</sup> ~~the~~ <sup>the</sup> ~~land~~ <sup>land</sup> ~~of~~ <sup>of</sup> ~~the~~ <sup>the</sup> ~~free~~ <sup>free</sup> ~~&~~ <sup>&</sup> ~~the~~ <sup>the</sup> ~~home~~ <sup>home</sup> ~~of~~ <sup>of</sup> ~~the~~ <sup>the</sup> ~~brave~~ <sup>brave</sup> ~~is~~ <sup>is</sup> ~~no~~ <sup>no</sup> ~~more~~ <sup>more</sup>?

As escape could save the landing & shore  
 From the terror of flight or the gloom of the grave,  
 And the star-spangled banner in triumph doth wave  
 O'er the land of the free & the home of the brave.

O thus be it when our fathers shall stand  
 As though their loved home & the war's destruction  
 With every aching eye, the heart's aching hand  
 Praise the power that hath made us a nation,  
 When conquerors' sons of the war come it's just,  
 And they be our mothers & fathers is our trust,  
 And the star-spangled banner in triumph doth wave  
 O'er the land of the free & the home of the brave.

FAC SIMILE OF THE ORIGINAL DRAFT OF THE SONG

vainest thoughts conceive, or your imagination picture, the fearful anxiety and agony of this last supreme moment of terror?

Scarcely thirty-five years of age, may it not be safely said to his fair brow came its first furrow; to his rich suit of waving chestnut hair, its first strains of silver. Who can say? A physical frame taxed to the limit of its strength by long and anxious vigil; nerves shattered and unstrung; a patriotic heart, overcome by emotion, fearing to hope, could sustain him no longer—exhausted he sank upon his pure Christian soul, like a Rock of Ages, for shelter and succor, murmuring to his God the prayer, O Lord, God of Hosts! “The power that has made, preserve us a nation.” And thus in sweet communion with his God we leave him for an hour or more, until the break of day, for his proud spirit and genuine modesty never disclosed, even to his closest friends, anything of the awful sensations which he experienced and suffered during this time.

Such of them as he cared to give the world are found only in the lines of his hymn, “The Star Spangled Banner.”

Not even to his friend, John Randolph of Roanoke, to whom he wrote shortly thereafter, does he mention them or even

the fact of his having written the song. All he says of his mission is as follows:

"You will be surprised to hear that I have since then spent eleven days in the British Fleet. I went with a flag to endeavor to save poor old Dr. Beans a voyage to Halifax, in which we fortunately succeeded. They detained us until after their attack on Baltimore, and you may imagine what a state of anxiety I endured. Sometimes when I remembered it was there the declaration of this abominable war was received with public rejoicings. I could not feel a hope that they would escape and again when I thought of the many faithful whose piety lessens that lump of wickedness I could hardly feel a fear.

"To make my feelings still more acute, the admiral had intimated his fears that the town must be burned and I was sure that if taken it would have been given up to plunder. I have reason to believe that such a promise was given to their soldiers. It was filled with women and children. I hope I shall never cease to feel the warmest gratitude when I think of this most merciful deliverance. It seems to have given me a higher idea of the 'forbearance, long suffering and tender mercy' of God, than I had ever before conceived.

Never was a man more disappointed in his expectations than I have been as to the character of British officers. With some exceptions they appeared to be illiberal, ignorant and vulgar and seem filled with a spirit of malignity against everything American. Perhaps, however, I saw them in unfavorable circumstances."

Shortly after the attempt of the British to slip past the fort, which resulted so dis-

astrously to their forces and caused the last terrible grand spectacular display, word had reached the flagship of the failure of their land forces and the death of General Ross. On board which, the "Minden," or the flagship, greater depression was felt, is a question too difficult to determine. Such is war!

With the first approach of the gray streaks of dawn, Mr. Key turned his weary and bloodshot eyes to the direction of the fort and its flag, but the darkness had given place to a heavy fog of smoke and mist which now enveloped the harbor and hung close down to the surface of the water.

Some time must yet elapse before anything definite might be ascertained, or the object of his aching heart's desire discerned. At last it came. A bright streak of gold mingled with crimson shot athwart the eastern sky, followed by another and still another, as the morning sun rose in the fullness of her glory, lifting "the mists of the deep," crowning a "Heaven-blest land" with a new victory and grandeur.

Through a vista in the smoke and vapor could now be dimly seen the flag of his country. As it caught "The gleam of the morning's first beam," and, "in full glory reflected shone in the stream" his proud and patriotic heart knew no bounds; the

wounds inflicted "by the battle's confusion" were healed instantly as if by magic; a new life sprang into every fiber, and his pent-up emotions burst forth with an inspiration in a song of praise, victory and thanksgiving as he exclaimed:

"Tis the Star Spangled Banner, Oh! long may  
it wave,  
O'er the land of the free and the home of the  
brave."

As the morning's sun arose, vanquishing the darkness and gloom; lifting the fog and smoke and disclosing his country's flag, victorious, bathed in the delicate hues of morn, only an inspiration caught from such a sight can conceive or describe, and so only in the words of his song can be found the description.

The first draft of the words were emotionally scribbled upon the back of a letter which he carried in his pocket and of which he made use to dot down some memoranda of his thoughts and sentiments.

Shortly after sunrise word was received from the British Admiral that the attack had failed and that Mr. Key and his party were at liberty to go at pleasure. They proceeded to Baltimore, and on the evening of the same day he wrote out the first complete draft of the song. The next morning, in calling upon Judge Nicholson,







SAMUEL SANDS

Who first set the song in type

Mr. Key related how he, in company with Colonel Skinner and Dr. Beans, had witnessed the bombardment of the fort from the deck of the "Minden," telling the Judge some little of his trying experience, and stating that on the morning after the battle, upon seeing the flag still waving, he had written a song, the draft of which he then drew from his pocket and showed the Judge, who was so impressed with its spirit and beauty that he insisted upon having it published immediately. He therefore took it to the printing office of Captain Benjamin Edes, on North Street, near the corner of Baltimore, but the Captain not having returned from duty with the Twenty-seventh Maryland Regiment, his office was closed, and Judge Nicholson proceeded to the newspaper office of the Baltimore American and Commercial Daily Advertiser, where the words were set in type by Samuel Sands, an apprentice at the time, "printer's devil," but who in later life became associated with Colonel Skinner in editing and publishing the American Farmer. Mr. Sands' own version of the part he took in first setting the words in type is given in a letter written by him to General Brantz on January 1, 1877. The letter is a very long one, and only a portion is here given.

“I will therefore premise that after the battle of North Point and the ceasing of the bombardment of Fort McHenry, the British forces retired from our shores, in their boats, to the fleet lying in the river, and then proceeded down the bay, leaving our city and its surroundings free once more from the dangers of their incursions. Although there were a number of regiments of militia hastily drawn from the counties of our own state as also from the neighboring states of Pennsylvania and Virginia, yet the force which was sent to the front to meet General Ross and his invading army, which had effected a landing at North Point, consisted almost entirely of the Baltimore city regiments, who on the occasion met the veterans of Wellington’s army and presented their bodies as a bulwark to the first advance of the invaders, a number of them giving their lives to the defense of our fair city and for the protection of their wives and daughters from the consequences of the ‘foe’s desolation.’ These citizen soldiers, when the enemy had disappeared from our vicinity took up their quarters in and adjacent to the intrenchments and batteries erected for our defense upon Loudenslagers hill, just eastward of the city borders, where they remained for some short time until all apprehension of the return of the British fleet had been dissipated. Whilst thus located, Mr. Thos. Murphy, one of the members of Capt. Aisquith’s First Baltimore Sharp Shooters, obtained leave of absence, and returned to the city, and again opened the counting room of the American which with all the other newspapers of the day, had suspended publication for the time being, the editors, journeymen and apprentices able to bear arms, being in the military service. According to the best of my recollection I was the only one belonging to the

printing office that was left who was not in the military service, being then but fourteen years of age, and not capable of bearing arms I whiled away the time during the suspense of the invasion in looking after the office and in occasional visits to the 'boys' at the entrenchments. After Mr. Murphy's return, the manuscript copy of the song was brought to the office—I always had the impression that Mr. John S. Skinner brought it, but I never so stated it as a fact, for I had no proof thereof, but it was a mere idea and I never considered it of sufficient importance to make inquiry upon the subject from my old and valued friend, Mr. Murphy, or from Mr. Skinner, who was subsequently engaged with me in the editing of my farm journal and who was the founder thereof—but the letter of Judge Taney alluded to above, proves that I was mistaken in that matter—Mr. Skinner was a cartel agent for our government in its intercourse with the British fleet in our Bay and I took up the impression that he on his return from the fleet had brought from Mr. Key the manuscript, but Judge Taney gives the particulars of the examination and copying of the song, in this city, by Judge Nicholson and Mr. Key and remarks that one of these gentlemen took it to the printers.

When it was brought up to the printing office my impression is, and ever has been, that I was the only one of those belonging to the establishment who was on hand, and that it was put in type and what the printers call 'galley proofs' were struck off previous to the renewal of the publication of this paper, and it may be and probably was the case that from one of these proof slips, handbills were printed and circulated through the city.

This is simply all the part which I had in the transaction alluded to. Although the song

obtained celebrity in a little time after it was first presented to the world, yet the unimportant and very secondary consideration as to who first printed and issued it was never mooted, for probably fifty years thereafter, when I was called upon by sundry persons to give my recollections upon the subject which called forth the responses in the several publications alluded to already.

At the time I put the song in type, I was an apprentice in the office of the Baltimore American and lived in the family of Mr. Murphy—and as this may probably be the last time I will be called upon again to publicly allude to the transactions detailed, I must ask to be permitted here to bear my tribute to the worth and excellency of character of my old friend. He was, in the strictest sense of the term, a gentleman of the most estimable character and was ever held in the highest esteem by all who enjoyed his acquaintance. He was with the rest of the hands of the office and was at the front in that gallant corps of riflemen, the Sharp Shooters, which was pushed forward in the advance of our little army to reconnoiter, and it was to two of them (Wills and McComas) the death of General Ross was attributed, the smoke of their guns indicated whence the fatal bullets came which killed the gallant general and a volley from the escort of Ross was poured into the copse of wood whence the firing proceeded which caused these two youthful heroes to bite the dust. Their fellow citizens afterwards contributed a sum of money to erect a monument to their memory and a lot in the eastern section of the city was appropriated for the purpose.”

Yours with respect,

(Signed)

SAML. SANDS.

Copies of the song were struck off in handbill form, and promiscuously distributed on the street. Catching with popular favor like prairie fire it spread in every direction, was read and discussed, until, in less than an hour, the news was all over the city.

Picked up by a crowd of soldiers assembled, some accounts put it about Captain McCauley's tavern, next to the Holiday-Street Theater, others have it around their tents on the outskirts of the city, Ferdinand Durang, a musician, adapted the words to the old tune of "Anacreon in Heaven," and, mounting a chair, rendered it in fine style.

On the evening of the same day it was again rendered upon the stage of the Holiday-Street Theater by an actress, and the theater is said to have gained thereby a national reputation. In about a fortnight it had reached New Orleans and was publicly played by a military band, and shortly thereafter was heard in nearly, if not all, the principal cities and towns throughout the country.

While inspiring and thrilling in every line, unlike most national airs, America's National Anthem is devoid of any foolish sentimental loyalty or passionate appeal to arms, but breathing a pure religious senti-

ment of praise and thanksgiving for the victory of the hour, it teaches and inspires in generations to come a lesson of emulation for truly brave and gallant deeds whenever "freemen may stand between their loved homes and the war's desolation."

Let it be added that the original flag was made by Mrs. Mary Pinkersgill, assisted by her daughter, Mrs. Caroline T. Purdy. Owing to its immense size, Mrs. Purdy, in a letter, states that permission to use the floor of the malt house of Claggitt's Brewery in Baltimore was asked by her mother and obtained, and says, Mrs. Purdy, "I remember seeing my mother down on the floor placing the stars." Whatever our friends, the prohibitionists, may think upon learning this, let them remember that even they for once must admit the floor of a brewery was turned to good account. Mrs. Purdy also states that "after the completion of the flag she and her mother superintended the topping of it, having it fastened in the most secure manner to prevent its being torn away by balls."

The accuracy of the version herein given of the arrest of Dr. Beans, as well as the statement that Samuel Sands first set the words of the Star Spanglend Banner in type, seems to be questioned by Oscar

George Theodore Sonneck, Chief of the Division of Music, Library of Congress, in a book compiled by him, entitled "A Report on the Star Spangled Banner, Hail Columbia, America, Etc.," 1909, issued as a government publication and printed at the Government Printing Office. It would appear that he prefers to accept the version that Dr. Beans was taken prisoner by the British because of his unwarranted arrest of the British soldiers when the Doctor was in the state of intoxication due to having imbibed too freely of "good punch." Suffice it to say that those who accept such a view of the matter mistake entirely the character of Mr. Key. He would never have interested himself in Dr. Beans' release had such been the cause of the Doctor's arrest, for he had no sympathy for those who bring trouble on themselves by reason of their excesses. As for the statement that Mr. Sands first set the song in type, his own letter, herein published, wherein he states affirmatively that he did so, and the circumstances he relates under which he was called upon to set the song in type, is a sufficient justification, and it is submitted better evidence that the claims of friends and descendants of others anxious to gain some share in the honor connected with writing and publishing the



National Anthem. It is most unfortunate that such errors should appear in a publication bearing the official stamp of our government.





OLD KEY HOME IN GEORGETOWN

In danger of destruction unless saved by the American People

## CHAPTER VII.

### *The Old Georgetown Home*

On old Bridge Street, now known as M Street, one half block from what was formerly the Aqueduct Bridge, stands to this day an old colonial house, two stories and gable roof, with dormer windows. To the right of the house as you enter is a one-story brick office. Entering the front door, which is situated at the extreme left of the building, one enters a large spacious hall running the entire depth of the house at the end of which is a door which led originally into a large conservatory. Midway the length of this hall is a large arch, ascending just to the rear of which is a colonial stairway leading to the stories above. On the right of this hall are two large spacious parlors, while in the basement below is the dining room, kitchen, and "cold room"—a bricked-up room, with brick floor, as well, used as a refrigerator and pantry. In the second story are two large bed rooms and large hall room, while

the third floor contains four bed rooms. The window panes are small, about four by six inches in size, supported in heavy sashes, as was the custom in the days of a century ago. In this now old historic landmark of the National Capital, Mr. Key lived with his family for many years. It was here that all of his children were born and also where he resided at the time of his memorable mission to the British Fleet.

The little brick office was his law office. The general appearance of the place is very different, of course, to-day from what it was then. The one-time beautiful gardens in the rear of the house, which sloped gracefully to the edge of the river, have given way to building sites for large factories, warehouses, etc., while Water Street and the Chesapeake and Ohio Canal traverse them from side to side. However, enough remains to bear witness as to what the place at one time was. During the past two years the premises have been in the possession of the Francis Scott Key Memorial Association and kept open to the public with a view of awakening sufficient interest to make the raising of the necessary funds for the purchase and preservation of the home possible.

The Officers of the Association include the Hon. Henry B. F. Macfarland, President; Admiral George Dewey, U. S. N.; Rear Admiral Winfield S. Schley, U. S. N., retired, and others. It is to be hoped the purpose may be speedily accomplished.

## CHAPTER VIII.

### *In Conclusion.*

In personal appearance Key was handsome, his eyes were dark blue and his hair curly, he wore neither beard or moustache, and dressed simply. His manner was one of quiet dignity, and he was kind and courteous to all. He was very domestic and devoted to his home, wife and children. Naturally with his artistic temperament he was fond of elegant literature and of the poets; Sir Walter Scott was his favorite. He did not care particularly for Byron, while the sentimental Tom Moore he abhorred to the point of requesting his wife to burn the copy of his poems contained in their library.

He possessed in a remarkable degree the confidence of all who knew him. Gentlemen in writing to him to engage his professional services frankly state that they do so because their friends have recommended him as one in whom the utmost confidence could be placed. To such an extent was confidence reposed in his professional integrity that F. S. Lyon writes

from Demopolis, Alabama, requesting him to engage the attorney to appear on the opposite side of a case in which he was counsel. "As you are engaged against the claim of Follin," writes Mr. Lyon, "I would be greatly obliged to you to request Mr. Swann, or such other gentleman of the profession as you may select, to represent the interests of Follin's widow and children." Another of his clients writes: "I have examined my business in the Land Office entrusted to your care and am happy to say that you have in every instance strictly protected my interest," while yet another, anxious, no doubt, to frequently hear from him admonishes, "For a lawyer to please his clients you have no doubt known that it is required that he should frequently write them."

When his conscience was awakened to the appreciation of an injury or injustice he was quick to resent it, and yet, as he himself wrote Bishop Kemp, he preferred to follow quietly in his own course of Christian duty without interfering with others and to bear with meekness their interference with him.

He was the Recorder of the City of Georgetown for several years and frequently called upon by its citizens to pass opinion upon drafts of proposed legisla-



tion affecting their interests, both publicly and privately.

In a letter to Randolph written during the early part of July, 1814, he writes; the courts had been broken up by a rumor that the British were ascending the Patuxent, and he, with others, marched to Benedict to meet and engage them. Of adventures by "land and flood" all he had to report was being knocked down by a "bone of bacon" and pitched over "my horse's head into the river," but he says this was quite enough for him, and adds he had seen enough of the wars. As a youth, such adventures evidently did not possess the same terrors for him. It is related that while a student at St. John's College he amused his fellow students on one occasion, to the edification no doubt of the faculty, by jumping astride a cow and galloping wildly about the campus upon the frightened animal's back. In after years, however, he took life seriously enough, devoting himself largely to the interest of others. Long before the slavery question was agitated he freed his slaves, and, as we have seen, interested himself to no small extent in trying to better the condition of the colored race.

At Pipe Creek, upon the family estate, Terra Rubra, he was wont to spend, with

his family, his summer vacations, a custom he maintained as long as he lived.

Most of his verse was written spontaneously and frequently scribbled on the back of old papers and letters, as was the case of even The Star Spangled Banner. It would appear that just as the inspiration struck him he would jot down his thoughts upon anything handy. One little unpublished verse appears upon the back of the rough draft of a proposed contract between himself and a young law student anxious to study law under him. It is as follows:

'Tis a point I long to know,  
Oft it causes anxious thought,  
Do I love the Lord or no,  
Am I His or am I not?

On the whole he can without hesitation be pronounced a man. His character inspires and stimulates all who learn it to emulate him in everything and to love nobleness.

## CHAPTER IX

### *Heaven Claims Its Own.*

On a mid-winter's day, the 11th of January, 1843, within a gun's shot of the fort whose stubborn defense will ever be perpetuated in the beautiful lines of his immortal verse, Heaven claimed its own, and the Christian soul which had given the man his great strength of character, found its reward in the "full glory" of the life hereafter.

It was while on a professional visit to Baltimore, at the home of his eldest daughter, Mrs. Charles Howard, that Mr. Key breathed his last, upon which site now stands the Mount Vernon Place Methodist Episcopal Church. A few days later the Honorable Hugh L. Legare, the Attorney General, announced his death to the Supreme Court of the United States on behalf of the Bar of that court, with the following tribute:

"My acquaintance with the excellent man, whose sudden death in the midst of a career of eminent usefulness, public and private, and of the most active devotion to the great interest of humanity, we are now called upon to deplore, was until a very recent period extremely

limited. But short as was my personal intercourse with him, it was quite long enough to endear him to me in a peculiar manner, as one of the most gentle, guileless, amiable and attractive beings with whom, in an experience sufficiently diversified, it has been my good fortune to act. Ardent, earnest, indefatigable in the pursuit of his objects, and the performance of his duties, eloquent as the advocate of whatever cause he embraced, because his heart was true and his sympathy cordial and susceptible, decided in his conduct without one particle of censoriousness or asperity towards others; with the blandest manners, the most affectionate temper, the most considerate toleration of dissent, the most patient acquiescence in the decisions of authority, even where he had the most strenuously exerted himself to prevent them, his life seemed to me a beautiful pattern of all that is lovely, winning and effective in the charity of a Christian gentleman."

Mr. Justice Thompson, in the absence of the Chief Justice, Mr. Key's brother-in-law, who, of course, was not present, replied in part as follows:

"Mr. Key's talents were of a very high order. His mind was stored with legal learning, and his literary taste and attainments were highly distinguished, and added to these, was a private character which holds out to the bar a bright example for imitation. The loss of such a man cannot but be sincerely deplored."

Under date of Cambridge, Mass., March 25, 1843, Mr. Justice Story wrote the Chief Justice as follows:

"I was exceedingly grieved in hearing of the death of Key. His excellent talents, his high morals, his warm and active benevolence, and his most amiable and gentle temper endeared him to all who knew him. To you and Mrs. Taney the loss is irreparable, and to the public, in the truest sense of the word, a deep calamity."

Even so the flag of the free will ever be his best memorial, for his praise will be sung whenever and wherever are heard the words of his song. To all generations the departed patriot will thus make known the true genius and inspiration of patriotism.

"I have been a base and grovelling thing,  
And the dust of the earth my home,  
But now I know that the end of my woe,  
And the day of my bliss, is come.

Then let them, like me, make ready their  
shrouds,  
Nor shrink from the mortal strife,  
And like me they shall sing, as to heaven they  
spring,  
Death is not the end of life."

—Key.



KEY MONUMENT AT GRAVE  
Mount Olivet Cemetery, Frederick, Md.



# APPENDIX



## THE STAR SPANGLED BANNER

O say! can you see, by the dawn's early light,  
What so proudly we hailed, at the twilight's  
last gleaming?

Whose broad stripes and bright stars through  
the perilous fight,

O'er the ramparts we watched, were so gal-  
lantly streaming;

And the rockets' red glare, the bombs bursting  
in air,

Gave proof through the night that our flag was  
still there;

O say, does that Star Spangled Banner yet  
wave

O'er the land of the free and the home of the  
brave?

On that shore, dimly seen through the mists of  
the deep,

Where the foe's haughty host in dread silence  
reposes,

What is that which the breeze, o'er the tower-  
ing steep,

As it fitfully blows, now conceals, now dis-  
closes?

Now it catches the gleam of the morning's first  
beam,

In full glory reflected now shines in the  
stream:

'Tis the Star Spangled Banner; O long may it  
wave

O'er the land of the free and the home of the  
brave!

And where are the foes who so vauntingly  
swore

That the havoc of war, and the battle's con-  
fusion,

A home and a country should leave us no  
more:

Their blood has washed out their foul foot-  
steps' pollution;

No refuge could save the hireling and slave  
From the terror of flight, or the gloom of the  
grave;

And the Star Spangled Banner in triumph  
doth wave

O'er the land of the free and the home of the  
brave!

O thus be it ever, when freeman shall stand  
Between their loved homes and the war's  
desolation;

Blest with victory and peace, may the heav'n-  
rescued land

Praise the Power that hath made and pre-  
served us a nation!

Then conquer we must, when our cause it is  
just,

And this be our motto, "In God is our trust;"  
And the Star Spangled Banner in triumph  
shall wave

O'er the land of the free and the home of the  
brave!

## HYMN

Lord, with glowing heart I'd praise thee  
For the bliss thy love bestows,  
For the pardoning grace that saves me,  
And the peace that from it flows.  
Help, O God! my weak endeavor,  
This dull soul to rapture raise;  
Thou must light the flame, or never  
Can my love be warmed to praise.

Praise, my soul, the God that sought thee,  
Wretched wanderer, far astray;  
Found thee lost, and kindly brought thee  
From the paths of death away.  
Praise, with love's devoutest feeling,  
Him who saw thy guilt-born fear,  
And, the light of hope revealing,  
Bade the blood-stained cross appear.

Lord! this bosom's ardent feeling  
Vainly would my lips express;  
Low before thy foot-stool kneeling,  
Deign thy suppliant's prayer to bless.  
Let thy grace, my soul's chief treasure,  
Love's pure flame within me raise;  
And, since words can never measure,  
Let my life show forth thy praise.

## A RIDDLE.\*

I made myself, and though no form have I,  
Am fairer than the fairest you can spy;  
The sun I outshine in his mid-day light,  
And yet am darker than the darkest night;  
Hotter I am than fire, than ice more cold,  
Richer than purest gems of finest gold,  
Yet I am never either bought or sold;  
The man that wants me, never yet was seen;  
The poor alone possess me; yet the mean  
And grudging rich oft give me to the poor,  
Who yet are not made richer than before;  
The blindest see me, and the deafest hear;  
Cowards defy me, and the bravest fear:  
If you're a fool, you know me; if you grow  
In knowledge, me you will soon cease to know.  
Get me—and low and poor thy state will be;  
Forget me—and no equal shalt thou see.  
Now catch me if you can—I'm sometimes  
    caught,  
Though never thought worth catching, never  
    sought.  
Am I still hid? then let whoever tries  
To see me, give it up, and shut his eyes.

---

\*The above conundrum in verse was composed by Mr. Key at a dinner party when the company present after dinner were engaged in asking and solving riddles. It was, therefore, written upon the spur of the moment as is true of most all of Mr. Key's poetry, including, as we have seen, even the Star Spangled Banner. The answer to the conundrum is, "*nothing*" which when perceived demonstrated the cleverness of the author.

*Inscription in St. John's Church. Georgetown :*

JOHANNES I. SAYRS.

”Hujus ecclesiae rector primus hic quo,  
Christi servus, fideliter ministrabat,  
Sepultus, jacet.”

Here once stood forth a man who from the  
world,  
Though bright its aspect to the youthful eye,  
Turned with affection ardent to his God,  
And lived and died an humble minister  
Of His benignant purposes to man.  
Here lies he now; yet grieve not thou for him,  
Reader! He trusted in that love where none  
Have ever vainly trusted. Rather let  
His marble speak to thee; and should'st thou  
feel  
The rising of a new and solemn thought,  
Waked by this sacred place and sad memorial,  
O, listen to its impulse!—'tis divine—  
And it shall lead thee to a life of peace,  
A death of hope, and endless bliss hereafter.



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